

## MEMORANDUM

**TO:** District of Columbia Zoning Commission  
**FROM:** <sup>JLS</sup>  
Jennifer Steingasser, Deputy Director  
Historic Preservation and Development Review  
**DATE:** February 9, 2015  
**SUBJECT:** ZC 14-12 – Supplemental Report for a Consolidated and First Stage Planned Unit Development and Related Zoning Map Amendment from the C-M-1 District to the C-3-C District: 1309-1329 5<sup>th</sup> Street N.E. in the Florida Avenue Market (Square 3591, Lot 800)

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### I. SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval of:

- A Consolidated and First Stage PUD with related map amendment from C-M-1 to C-3-C for Lot 800 in Square 3591, and the requested flexibility:
  - To provide rooftop structures with varied heights (§ 411);
  - To provide court areas that deviate from width requirements (§ 776);
  - To provide the required on-site parking spaces off-site temporarily (§ 2101);
  - To provide bicycle parking required for the South Building in the North Building (§ 2119);
  - To provide less loading than required (§ 2201);
  - To provide either residential or office use in a portion of the South Building; and
  - To provide either residential or office use in a portion of the North Building.

With the following conditions:

1. The two affordable housing units available at 50% AMI shall be expressed as a square foot area, consistent with the Inclusionary Zoning regulations; and
2. The “Union Market” sign shall remain in its current location above the market.

The requested C-3-C District would support the written elements of the Comprehensive Plan and Florida Avenue Market Small Area Plan, and would not be inconsistent with the Future Land Use and Generalized Policy maps.

## **II. BACKGROUND**

At the public hearing of January 5, 2015, the Zoning Commission discussed and heard a presentation from the applicant concerning the proposed Union Market/Angelika Film Center PUD located in the Florida Avenue Market Area. At the hearing, it was determined that significant additional information would be required from the applicant in response to issues raised by the Zoning Commission, OP, District Department of Transportation (DDOT) and District Department of the Environment (DDOE). The hearing was continued, allowing the applicant time to resolve issues prior to the hearing scheduled for February 11, 2015.

Since that time, OP, DDOT and DDOE have worked with the applicant, meeting several times, to obtain responses to issues and questions that were raised in their respective reports. The applicant has addressed these issues, along with those discussed by the Zoning Commission, in its February 2, 2015 pre-hearing submission.

## **III. ANALYSIS**

Overall, the quality of the submission has improved since the public hearing, as the applicant has provided better-detailed drawings and renderings depicting the proposed PUD. Responses to several questions posed by the Zoning Commission, OP, DDOT and DDOE have also been provided. Outstanding issues noted at the public hearing and OP Report are provided below, along with the applicant's responses and a brief analysis.

<b>Zoning Commission Comments</b>	
<b>Public Realm</b>	
<p>1. The contribution of Streetscape Design Guidelines is difficult to judge as a benefit without more information.</p>	<p>Since the January 5, 2015 public hearing, the applicant has continued to work with DDOT to establish a scope of work for the Streetscape Design Guidelines. Exhibit D of the pre-hearing statement provides a refined scope, and notes that the purpose of the Guidelines is to provide an assessment of existing conditions and future needs of the Market, as well as design guidelines for future improvements that will accommodate existing wholesale and light industrial uses alongside newer retail-driven mixed-use development.</p> <p>The Market area currently has minimal streetscape improvements, as it lacks landscape and is unsuitable for pedestrians in many areas. The Guidelines would establish a design for streetscape that would encourage and facilitate pedestrian activity while establishing appropriate traffic patterns that would foster a multimodal environment. The value in establishing Streetscape Design Guidelines is that they will include a study that assesses the need for streetscape infrastructure and will identify the improvements that will need to be made to accommodate future developments. The guidelines, approved by DDOT, will remove the guesswork from future developments by providing clear streetscape requirements, including cross sections for each right-of-way, standard materials, and details regarding transitions between special public space design and traditional public space design.</p> <p>The scope provided in the pre-hearing submission notes that there would be outreach to stakeholders within the Market, including landowners and businesses. ANC 5D has also expressed the desire for the community at large to be included in the outreach efforts for the Streetscape Design Guidelines.</p>
<p>2. Additional information concerning the easement should be provided, and is necessary to determine if the balcony overhangs will violate the agreement.</p>	<p>The applicant has provided additional information concerning the easement, and has verified that the projections will not violate the agreement.</p>

<p>3. How is pedestrian access from Gallaudet University achieved?</p>	<p>The applicant has not specifically addressed how access from Gallaudet University will be achieved. However, there is currently a crosswalk on 6<sup>th</sup> Street between Union Market and Brentwood Park that facilitates pedestrian traffic. Sixth Street was recently improved to include bike lanes, and bump-outs framed by flower pots have been installed on either end of the crosswalk, shortening the distance of the crossing for pedestrians. In the future, it is anticipated that Gallaudet University will submit a proposal that will accommodate additional access points to the property located south of Union Market.</p>
<p>4. The loading off the urban plaza requires more information and DDOT review.</p>	<p>The applicant has provided a Loading Management Plan in the pre-hearing statement, which was approved by DDOT.</p>
<p>5. Provide additional loading turn movements.</p>	<p>Additional loading turn movements have been provided in the pre-hearing statement, which begin on sheet C-301 in Exhibit A.</p>
<p><b>Parking</b></p>	
<p>6. The phasing for parking is unclear. How will it maintained during construction?</p>	<p>The applicant has provided a phased parking plan as part of the pre-hearing submission (Exhibit C). The parking plan identifies the location and quantity of parking that will be available to the South Building during construction. The lot located south of Union Market currently provides 225 parking spaces and is leased until October 2016. Once that parking is no longer available, it will be provided on the North Building site, consisting of 95 spaces, and on ancillary lots providing an additional 95 spaces, resulting in a total of 190 spaces. Note that the required number of spaces for the South Building is 171 spaces.</p> <p>The applicant has confirmed that they own other parking lots in the Florida Avenue Market that will be available to them during the construction of the North Building, when the temporary parking on that site will no longer be available. The parking supply will require additional evaluation once the Second Stage PUD for the North Building is reviewed to ensure that the construction staging area has been identified and to verify that adequate parking has been provided on ancillary lots.</p>
<p><b>Sustainability</b></p>	
<p>7. The project should achieve greater than LEED Silver.</p>	<p>The applicant continues to commit to certify the project as LEED Silver using version 2009; however, the applicant will continue to identify opportunities to increase points.</p> <p>DDOE has identified several points that could be obtained for this project simply for complying with building code requirements. OP strongly supports a greater level of certification, which would also enhance the benefits and amenities package.</p>

<b>Open Space</b>	
8. Has Gallaudet University committed to the same public space treatment on its side of the easement?	The applicant has indicated that Gallaudet University is in support of the open space concept and preliminarily intends to create an equivalent open space area that would abut the proposed urban park.
9. Dimensions of the urban park and plaza should be provided.	Dimensions of the urban park and plaza have been provided on sheet L3 of the pre-hearing statement. The urban park is 275 feet in length and 25 feet in width, while the urban plaza is 275 feet in length and ranges from 30 to 70 feet in width.
10. How is the urban park different from a plaza?	At the January 5, 2015 public hearing, the applicant clarified that the urban plaza is intended to be more urban, facilitating more truck and loading movements, and relying on vendors and movable furniture to create an energetic, urban place. In contrast, the urban park is intended to provide more green space and recreation.
11. Are there easement issues with the theater projecting into the park?	The applicant has indicated that the proposed projections into the easement do not violate the private agreement between the two property owners.
<b>Affordable Housing</b>	
12. The affordable housing component should be larger; people that live in this neighborhood will not be able to afford to live here.	<p>In response to the Zoning Commission's concern regarding affordability, the applicant has proffered a deeper level of affordability as a benefit and amenity. If the project includes a residential component, then 8% of the floor area, equating to approximately eight to ten units, would comply with Inclusionary Zoning requirements. However, two of those units would be provided at 50% AMI rather than the required 80%.</p> <p>Since the number of units that would be provided is still in flux, ranging between 100 and 115 units, OP would prefer to assign the 50% AMI to a square foot area rather than number of units.</p> <p>The total amount of required affordable housing for this project is 8,860 square feet. To ensure that the units provided at 50% AMI are representative of and comparable to other units that may be provided in the building, the applicant has suggested a hybrid of the two concepts, where two units would be provided and equate to 20% of the floor area, which is 1,772 square feet. OP is supportive of any option that includes a square foot area.</p>
<b>Building Design</b>	
13. The applicant should provide only one option for the penthouse that complies with the current Zoning Regulations.	The applicant has removed penthouse options from the submission.

<p>14. The design of the consolidated portion of the request does not seem complete, as it lacks color contrast and shadow lines.</p>	<p>The applicant has provided additional information concerning the materials and colors that will be implemented into the design of the building. In particular, A13 through A17 in the pre-hearing submission provide greater detail regarding materials, colors and textures that will be used in the façade.</p>
<p>15. The quality of the drawings provided with the submission is not at the level expected for a Consolidated PUD. Provide additional details and larger elevations.</p>	<p>The pre-hearing statement includes more complete renderings of the proposed development. Sheets A13 through A17 provide greater detail of the materials, colors and textures that will be applied to the structure. Additional perspectives have also been included. The applicant has indicated that material boards will be provided at the public hearing.</p>
<p>16. Elevating the sign does not necessarily increase its visibility, and it looks better at the originally proposed location.</p>	<p>The applicant has indicated that the sign would be permitted by exemptions to the Height Act of 1910 under DC Code. It is further noted that the sign is necessary on top of the building as an identifier for Union Market. The sign is intended to be an iconic identifier of the Florida Avenue Market area, and to increase visibility of the general area. Sheet A25 of the pre-hearing submission provides a location study for the Union Market sign.</p> <p>OP disagrees that the Union Market sign is an identifier of the entire Market area. The area has traditionally been identified as Florida Avenue Market, where Union Market was but one component. In this case, the sign continues to identify one part of the whole, and should be placed at a height that is more appropriate to wayfinding. The current placement of the sign allows for better wayfinding from the ground, which is the purpose of wayfinding signs as noted in the Small Area Plan and cited in the applicant's pre-hearing statement. OP recommends that the Union Market sign remain at its current location.</p>
<p>17. Provide building sections through the roof so that there is a better understanding of the rooftop.</p>	<p>Penthouse building sections have been provided on sheet A12.</p>
<p>18. Provide a larger elevation of page 65 so that the materials can be better understood (horizontality of the tiles).</p>	<p>Sheets A13 through A17 in the pre-hearing statement better illustrate the horizontality of the tiles.</p>
<p><b>Use Flexibility</b></p>	
<p>19. The flexibility for the residential/office uses is a new idea; there is usually a better idea of market demands in an area at this stage. Provide additional information that clarifies the need for this flexibility.</p>	<p>The applicant has provided additional clarity regarding the need for this flexibility on page four of the pre-hearing statement. The need for flexibility is necessary in order to deliver the theater on time and allow the applicant to fulfill its contractual obligation.</p>

<p>20. How does Class A office space and luxury housing blend with the neighborhood? The project looks like gentrification of a neighborhood, particularly since those in the neighborhood could not afford to live there.</p>	<p>In response to the Commission’s concerns regarding affordability, the applicant has proffered two units at a deeper level of affordability. As a result, approximately six to eight affordable units would be available at 80% AIM, and two would be available at 50% AMI.</p> <p>The applicant has further indicated that if office use is provided, they intend to fill the space with an entrepreneurial, eclectic tenant that is attracted to and will enhance Union Market.</p>
<p><b>Benefits and Amenities</b></p>	
<p>21. There needs to be a better explanation of security as an amenity. It appears to be proffered even though it is currently being provided for the operation of the Market. This would not typically be considered a benefit or amenity.</p>	<p>The applicant has provided two maps in Exhibit E of the pre-hearing statement that identify the current and future boundaries of the security patrol area. Page seven of the statement further indicates that the overall cost of the enhanced security, of approximately \$1,053,000, does not include the cost of security services for Union Market.</p>
<p>22. Proffering items that are already being done and essential to the operation of a business are not acceptable as benefits and amenities.</p>	<p>The applicant did not directly respond to this comment in the pre-hearing submission. However, the applicant has indicated that the application does not try to claim credit for benefits that have been provided in the past, and there is currently not a commitment to provide many of the benefits included in the submission, such as the education programs and community events. The proposed benefits and amenities package would ensure that these programs continue to occur into the future.</p> <p>The pre-hearing statement provides more detail concerning some of the benefits. In particular, the section that focuses on Event Space and Community Events and Programming notes that event space would be provided to the community for a period of five years, “provided that “Dock 5 space” exists as event space.” This statement implies that the event space could be withdrawn as a benefit and amenity prior to the end of the five year period and may not be a significant benefit. The vague language does not reflect the level of specificity typically accepted as a proffer.</p>
<p>23. What is the financial contribution to educational partnerships?</p>	<p>The applicant has assigned an estimated value of \$12,500 to educational programs. Further breakdown of how the money will be spent should be provided, and the applicant should confirm that that this benefit will comply with § 2403.6 of the Zoning Regulations.</p>

<p>24. Some of the benefits and amenities are not clearly defined or specified.</p>	<p>While the applicant has not responded directly to this comment, additional information has been provided in the pre-hearing statement regarding the following benefits and amenities: affordable housing; enhanced security commitment; LEED; education programs; and event space and community events and programming.</p>
<p>25. The potential creation of housing may not happen, so it cannot be a benefit and amenity.</p>	<p>The applicant has not responded directly to this comment.                   OP has suggested that other elements of the benefits and amenities plan be improved in order to enhance the overall package. In particular, it has been suggested that a deeper level of affordability, additional affordable units (see item 12) or a LEED Gold rating would create a package more commensurate with the level of development proposed.</p>
<p>26. Union Market appears to currently donate space to the public more frequently than has been proffered. The benefits and amenities package should at least maintain the current frequency.</p>	<p>The applicant has increased this public benefit from three community events per year to ten community events per year.</p>
<p><b>General</b></p>	
<p>27. The execution of the Consolidated PUD, in particular, is incomplete and not enough has happened since the project was set down in July.</p>	<p>The applicant has provided a pre-hearing statement that includes improved renderings and perspectives, and addresses many of the questions posed by the Commission, OP, DDOT and DDOE.</p>
<p>28. The submission needs to be a complete package for the project so that it can be evaluated.</p>	<p>The applicant has provided additional information and submission.</p>
<p>29. There are inconsistencies in the plans; ensure that the perspectives match the plans.</p>	<p>The revised perspectives appear to be more consistent with the plans.                   The Urban Porch Perspective provided on sheets A20 and A24 of the submission illustrate additional mass over the historic spine of the Market area, which are the structures located between 4<sup>th</sup> and 5<sup>th</sup> Streets. OP notes that at this time, it is unaware of any proposals for this area.</p>
<p>30. What safety measures will be undertaken during the construction over Union Market?</p>	<p>The applicant did not specifically address this question.</p>



<b>Office of Planning Comments</b>	
<b>Public Realm</b>	
1. Provide information concerning the Easement Agreement that ensures that the park will be permitted under the Agreement.	The applicant has provided additional information concerning the private Easement Agreement, confirming that the park will be permitted and indicating that Gallaudet University supports the open space concept and preliminarily intends to create a similar open space on its property.
2. Clarify how bicycle parking will function during the construction phase, given that it is located in front of Union Market.	The applicant has noted in the pre-hearing statement that the bicycle racks will be relocated within the vicinity of Union Market, and the number of spaces will comply with Zoning Regulations. Fifty-four short term bicycle spaces would be provided, while 47-50 long term spaces would be provided in the South Building.
<b>Parking</b>	
3. Provide clarification concerning the parking calculations provided for retail and event space uses.	The applicant has provided an explanation concerning the parking calculations, noting that there is a parking credit of approximately 70 spaces for the development.
<b>Sustainability</b>	
4. Respond to comments provided from DDOE.	<p>The applicant has met with representatives from DDOE to discuss comments provided in its memo dated October 27, 2014. Responses have been included as Exhibit H.</p> <p>The pre-hearing submission includes a new page, sheet LD2, which identifies several green initiatives that will be achieved in the development, including EV charging stations, rainwater harvesting and a hydroponic garden.</p>
5. Provide dimensioned plans for the plaza and park that identify the specific hardscape and landscape materials that will be used for those areas.	Sheet A3 of the pre-hearing submission provides dimensions for the urban park and plaza. The plan indicates that the surface of the urban plaza will be scored concrete. While a sample material palette has been provided for the urban park, the specific materials to be used have not been identified.
6. Clarify the interim condition of the plaza.	Sheet L4 of the pre-hearing submission identifies how the urban plaza will appear in its interim condition. The surface will consist of scored concrete, and planters will be provided to incorporate landscape.
7. The submission shall include perspectives of the park and plaza that are consistent with the site plans.	An additional perspective of the plaza has been provided in the pre-hearing statement and can be found on sheet A22.
8. Provide additional information concerning the residential option of the South Building proposal, including number of units, unit types (number of bedrooms) and number of affordable units.	The pre-hearing submission indicates that 100-115 units would be provided in the South Building, should the residential option be developed. Illustrative floor plans have been provided on sheet A5a, but a breakdown of units has not been provided.
9. Clarify the need for an FAR range.	Sheets Z1 and Z2 of the pre-hearing submission identify the FAR as 6.30 (541,423 square feet). A range is no longer provided.

10. Identify how the materials used reflect the industrial character of Florida Avenue Market.	No additional narrative has been provided however, additional renderings and detail s about materials have been included.
11. Provide additional information concerning the security services proffered as a benefit and amenity.	Please see response to number 21 above.
12. Provide information concerning the District Energy System – updates, meetings, research, etc.	The pre-hearing statement provides an update concerning the District Energy System, and notes that the development is being designed so that it may switch onto such a system in the event that it is created in the future.
13. Consider participation in the One-City-One Hire program or a First Source Employment Agreement.	The applicant has committed to enter into a First Source Agreement, as noted in the pre-hearing statement.
14. Provide summaries of community meetings that include issues and resolutions discussed.	The applicant has provided additional information in the pre-hearing statement about community meetings.

**IV. OTHER ITEMS**

Since the hearing on January 5, 2015, the applicant has provided additional information concerning this project that clarifies the proposal. The perspective on sheet A21 shows the theater volume projecting into the 5<sup>th</sup> Street public space. Because the projection is for the length of the building, it does not comply with public space requirements. As a result, the applicant will be required to request a modification to the construction code to allow the theater to project into public space. Should the modification not be granted, the applicant would be required to modify the design of the building through a modification of the PUD, which would require further review by the Zoning Commission. OP notes that without the projection, the building could still be considered to be of superior architecture.

**V. CONCLUSION**

OP recommends approval of the application with the conditions noted at the beginning of this report. The project will be a benefit to the Florida Avenue Market, as it continues to act as a catalyst for future development. The proposed PUD, when viewed against the maps and policy statements, is not inconsistent with the elements of the Comprehensive Plan. OP will continue to work with the Applicant to supplement the proposal as noted in this report, and to respond to any requests for additional information by the Commission.

JS/be  
 Case Manager, Brandice Elliott

